

REMARKS

Claims 1-3, 6-9, 12-20, 22, 31-38, 51-62, 69, 70, and 77-82, *i.e.*, all pending claims, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buncke (U.S. Patent 5,931,855) in view of Morency et al. (U.S. Patent publication 2003/0149447). The Office Action recognizes that Applicants' claimed invention is directed to a suture that comprises barbs with a configuration that includes an arcuate base at the underside of the barbs, among other recited features. The Office Action relies on Buncke as showing one or more of those "other recited features", but acknowledges that Buncke does not teach or suggest that the barbs have an arcuate base at their underside. The Office Action looks to Morency, which also discloses sutures having barbs, for teaching barbs that may be rounded on both the topside of the barb (74) and the underside of the barb (76), pointing specifically to ¶0040, Fig. 1G. The rejection concludes with the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Buncke such that the base at the underside of the barbs was arcuate to prevent tearing of delicate tissue. This rejection is respectfully but strenuously traversed for the following reasons.

Morency does not teach or suggest a suture having barbs with an arcuate base at their underside. The rounded feature that the Office Action has identified in the barbs of Morency is not the "base" of the underside of a barb, as that term is being used in Applicants' claimed invention. Applicants use the term "base" to denote the precise junction between the suture body and the suture barb: in other words, the "base" of the barb refers to the "line" where the barb joins to the suture body. In essence, it is the line that remains when the knife which forms the barb stops cutting into the suture body. Applicants have surprisingly found that if this base, or line, is arcuate, the suture will display better performance, *e.g.*, the barb tends to better stand up and project away from the suture body.

Looking at Fig. 1G, it can be seen that the underside (76) of the barb (72) is arcuate in a longitudinal direction, *i.e.*, the barb's underside is arcuate relative to the longitudinal axis of the suture shown as a dashed line in Fig. 1G. However, this does not teach or suggest that the base of the underside of the barb is any particular configuration. Since Fig. 1G is a side or perhaps cross-sectional view of the suture of Morency, this Figure shows only a single point

of the line that is the base of the underside of the suture. This limited information does not teach or suggest any particular configuration for that baseline.

Furthermore, there is no explicit mention in Morency of any particular configuration for the underside base of the barbs. This is a location of the sutures which is ignored by Morency, or at least not recognized as having any noteworthy or mentionable significance. Likewise, the Figures of Morency do not explicitly or, by chance, implicitly, illustrate any configuration at all for the underside base of a barb. Accordingly, one having ordinary skill in the art would not be motivated, by Morency, to give any consideration to the configuration of the underside base of the barb, and would certainly not be motivated to select an arcuate configuration for that underside base according to Applicants' claimed invention.

The Office Action has made many additional comments, drawing comparisons between the disclosures of Buncke and Morency, and the invention claimed by Applicant. While not agreeing with those comparisons, Applicants respectfully direct the Examiner's attention to the feature of an arcuate underside base, which is not shown in either of Buncke or Morency.

Claims 1-3, 6-9, 12-20, 22, 31-38, 51-62, 69, 70, and 77-82 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36, 58, 60, and 102-140 of copending Application No. 10/065,279 as amended November 19, 2009. While not agreeing with the rejection, a terminal disclaimer is included with this response, in order to overcome the rejection.

The Office Action concludes with the comment that the prior art made of record and not relied upon is considered pertinent to Applicants' disclosure including, Ruff (U.S. Patent 5,342,376) and Alcamo (U.S. 3,123,077). The Office Action contends that Ruff discloses a barbed suture with a multiple spiral disposition wherein the base at the underside is arcuate (Figure 3), and that Alcamo discloses a barbed suture with curved edges (col. 2, lines 4-11), and thus concludes that the barb has a curved underside. Applicants' would, in turn, like to comment that neither Ruff nor Alcamo teach or suggest a barb suture according to Applicants' claimed invention.

In view of the above remarks, allowance of claims 1-3, 6-9, 12-20, 22, 31-38, 51-62, 69, 70 and 77-82 is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (425) 831-3090 to resolve the same.

The Director is authorized to charge any additional fees due by way of this amendment, or credit any overpayment, to our Deposit Account No. 50-2574.

Respectfully submitted,
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